

AMENDED IN SENATE JUNE 3, 2009

AMENDED IN SENATE MAY 21, 2009

AMENDED IN SENATE APRIL 27, 2009

SENATE BILL

No. 474

Introduced by Senator Ducheny

February 26, 2009

An act to add Section 14105.1 to the Government Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 474, as amended, Ducheny. Transportation: pilot programs.

Existing law authorizes the Department of Transportation to do any act necessary, convenient, or proper for the construction, improvement, maintenance or use of all highways which are under its jurisdiction. *Existing law provides for the California Transportation Commission to program certain transportation funds for particular projects, and to report to the Legislature on various transportation policy matters.* Existing law authorizes the department and certain local agencies to enter into agreements for transportation projects under pilot programs using public-private partnerships. Existing law authorizes certain transportation projects under pilot programs using design-build and design-sequencing *contracting methods.* ~~For certain transportation pilot programs, existing law makes the department responsible for environmental coordination.~~

This bill would *require the lead agency for a project, prior to awarding any contract or entering into any agreement for a pilot program involving an alternative contracting or financing method, to*

make a finding that the use of that method will provide specified benefits. The bill would require the ~~department~~ California Transportation Commission to provide an annual consolidated report to the Legislature on the progress of and savings resulting from those pilot programs, as specified, based on input from the department and regional agencies. The bill would require the ~~department to present to the California Transportation Commission, for its review and comment, a draft of~~ commission to develop the methodology for determining those savings benefits. The bill would also require the lead agency for the project, prior to awarding any contract or entering into any agreement for a pilot program involving innovative contracting or financing authority, to make a finding that the use of that authority will provide specified benefits.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14105.1 is added to the Government
- 2 Code, to read:
- 3 14105.1. ~~(a) The department shall, on an annual basis, provide~~
- 4 ~~a consolidated report to the Legislature on the progress of the~~
- 5 ~~following pilot programs:~~
- 6 ~~(1) Public-private partnerships.~~
- 7 ~~(2) Design-build and design-sequencing.~~
- 8 ~~(3) Environmental coordination or streamlining under the~~
- 9 ~~California Environmental Quality Act or the National~~
- 10 ~~Environmental Policy Act.~~
- 11 ~~(4) Any other pilot programs involving innovative construction~~
- 12 ~~and contracting techniques.~~
- 13 ~~(b)~~
- 14 14105.1. (a) (1) Prior to awarding any contract or entering
- 15 into any agreement for a pilot program involving innovative an
- 16 alternative contracting or financing authority under the law method
- 17 identified in subdivision (c), the lead agency for the project shall
- 18 make a finding that the use of that authority the alternative method
- 19 will provide an acceleration in any of the following benefits to the

1 *public when compared to a traditional contracting or financing*
2 *method:*

3 (A) *Accelerates the project completion date, or date.*

4 (B) *Produces savings in personnel or financial resources, or*
5 *bring resources.*

6 (C) *Results in lower costs to the users of the facility developed*
7 *under the method.*

8 (D) *Brings financial resources to the project that would not*
9 *otherwise be available.* ~~If~~

10 (2) *If a project is under joint control of the department and a*
11 *local agency, both agencies shall concur in the finding before a*
12 *contract may be awarded.*

13 (b) *The commission, in cooperation with the department and*
14 *regional transportation agencies, shall develop the methodology*
15 *for determining whether a project will provide the benefits that*
16 *are identified in subdivision (a).*

17 (c) (1) *The commission shall, on an annual basis, provide a*
18 *consolidated report to the Legislature on the progress of the*
19 *following pilot programs:*

20 (A) *Public-private partnerships authorized pursuant to Section*
21 *143 of the Streets and Highways Code.*

22 (B) *Design-build authorized pursuant to Chapter 6.5*
23 *(commencing with Section 6800) of Part 1 of Division 2 of the*
24 *Public Contract Code.*

25 (C) *Design-sequencing authorized pursuant to Article 6.5*
26 *(commencing with Section 217) of Chapter 1 of Division 1 of the*
27 *Streets and Highways Code.*

28 (e)

29 (2) ~~The consolidated report required by this section shall include~~
30 ~~information on any savings in time or resources resulting from to~~
31 ~~the lead agency or to users of the resulting facility due to the pilot~~
32 ~~programs specified in subdivision (a) and the methodology for~~
33 ~~determining those savings. A draft of the methodology shall be~~
34 ~~presented to the California Transportation Commission for its~~
35 ~~review and comment.~~

36 (d) ~~Notwithstanding any other provision of law, the consolidated~~
37 ~~report required by this section shall be the only report required for~~
38 ~~the pilot programs described in subdivision (a); this subdivision,~~
39 ~~as well as the information required by Sections 143 and 217.8 of~~

1 *the Streets and Highways Code and Section 6811 of the Public*
2 *Contract Code.*

3 (3) *The consolidated report may be incorporated into the*
4 *commission's annual report to the Legislature as required by*
5 *Section 14535.*

6 (d) (1) *The department shall submit to the commission the*
7 *reports required by Section 217.8 of the Streets and Highways*
8 *Code for the purpose of preparation of the consolidated report.*

9 (2) *Upon request by the commission, any transportation agency*
10 *involved in one of the pilot programs specified in subdivision (c)*
11 *shall provide information deemed necessary by the commission*
12 *for the purpose of preparation of the consolidated report.*

13 (e) *It is the intent of the Legislature that agencies that seek to*
14 *utilize an alternative contracting or financing method justify the*
15 *use of that method by making a finding regarding the benefits that*
16 *the method is expected to yield for the public. It is further the intent*
17 *of the Legislature that agencies using such a method report on the*
18 *extent to which the method did in fact produce the expected*
19 *benefits.*

20 SEC. 2. *This act is an urgency statute necessary for the*
21 *immediate preservation of the public peace, health, or safety within*
22 *the meaning of Article IV of the Constitution and shall go into*
23 *immediate effect. The facts constituting the necessity are:*

24 *In order to require reporting for pilot programs, and findings for*
25 *pilot programs involving innovative alternative contracting or*
26 *financing, by the Department of Transportation California*
27 *Transportation Commission at the earliest possible time, it is*
28 *necessary that this act take effect immediately.*